



Reprinted
February 4, 2005

SENATE BILL No. 381

DIGEST OF SB 381 (Updated February 3, 2005 2:48 pm - DI 113)

Citations Affected: IC 5-21.5; IC 20-12; noncode.

Synopsis: Statewide broadband system. Requires the following to form a coordinating body of designated representatives to establish a statewide broadband system: (1) The governor (whose designee represents the telecommunications industry). (2) The intelenet commission. (3) The coordinating unit of the higher education telecommunications system. (4) The holder of the state's right of use to the I-Light high speed network. Requires the coordinating body to establish: (1) wireless broadband access points statewide; and (2) Ethernet ports at each I-Light node for access to the system by authorized users and other persons. Requires that the system be made available first to authorized users of the intelenet system. Requires the coordinating body to: (1) permit other persons to access the system if sufficient capacity exists; (2) consider certain factors if it becomes necessary to allocate capacity among persons seeking access; and (3) provide access to the system at a cost that does not exceed the coordinating body's costs to establish, operate, maintain, administer, and upgrade the system. Allows costs of the system to be paid from an account within the higher education statewide telecommunications fund. Provides that the account consists of fees or charges collected by the coordinating body for providing access to the system. Requires the coordinating body to report to the general assembly not later than October 1, 2005, on its progress in establishing and implementing the system.

Effective: Upon passage.

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January 11, 2005, read first time and referred to Committee on Economic Development and Technology.
January 31, 2005, reported favorably — Do Pass.
February 3, 2005, read second time, amended, ordered engrossed.

SB 381—LS 7765/DI 101+



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First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

SENATE BILL No. 381

A BILL FOR AN ACT to amend the Indiana Code concerning state and local administration and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 5-21.5 IS ADDED TO THE INDIANA CODE AS
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON
3 PASSAGE]:

4 ARTICLE 21.5. INDIANA STATEWIDE BROADBAND 5 SYSTEM

6 Chapter 1. Definitions

7 Sec. 1. The definitions in this chapter apply throughout this
8 article.

9 Sec. 2. "Authorized user" means:

10 (1) an authorized user of the intelenet system under
11 IC 5-21-1-2, including:

12 (A) political subdivisions;

13 (B) instrumentalities of state or local government that
14 provide public safety or emergency management services;

15 (C) school corporations;

16 (D) institutions of higher education; and

17 (E) community networks;

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(2) an authorized user of the Indiana Telecommunications Network administered by the Indiana higher education telecommunications system under IC 20-12-12;

(3) a local hospital authority or corporation, or other publicly funded hospital; or

(4) a certified technology park established under IC 36-7-32.

Sec. 3. "Coordinating body" refers to the representatives designated under IC 5-21.5-2-1 to coordinate the establishment of a statewide broadband system.

Sec. 4. "Holder" means a state agency or other instrumentality of state government that holds the contract for the state's infeasible right of use to I-Light.

Sec. 5. "I-Light" refers to the statewide high speed optical fiber network. The term includes the fiber optic networks known at any time as I-Light and I-Light 2.

Sec. 6. "Infeasible right of use" means a temporary ownership right in a fiber optic cable, specified in terms of a certain number of channels of a given bandwidth.

Sec. 7. "Person" means any individual, corporation, limited liability company, partnership, firm, association, public or private agency, or other organization.

Sec. 8. "System" refers to a statewide broadband system that:

(1) makes use of the best available technology, as determined by the coordinating body, including wireless broadband technology;

(2) allows broadband communications at a speed of at least twenty (20) megabits per second downstream to a subscriber; and

(3) includes:

(A) a statewide system of wireless broadband access points as required by IC 5-21.5-2-2(b); and

(B) a system of Ethernet ports at each I-Light node to allow access to the system by authorized users and persons other than authorized users, as required by IC 5-21.5-2-2(c).

Chapter 2. Establishment of the System; General Administration

Sec. 1. (a) The coordinating body to establish a statewide broadband system comprises four (4) individuals. The governor shall designate one (1) individual to represent the telecommunications industry. In addition, each of the following entities shall designate one (1) representative:

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(1) The intelnet commission established by IC 5-21-2-1.

(2) The coordinating unit established by IC 20-12-12-3.

(3) The holder.

(b) The holder may assign to the coordinating body an indefeasible right of use of all or part of the I-Light fiber optic network.

Sec. 2. (a) The coordinating body shall establish a statewide broadband system to be made available to authorized users and other persons as provided in section 3 of this chapter.

(b) In developing the system required by this section, the coordinating body shall test and deploy a system of wireless broadband access points throughout Indiana. A wireless system established under this subsection must:

(1) provide bandwidth transmission of at least five (5) megabits per second at each I-Light node; and

(2) be designed to permit the accommodation of additional capacity and coverage as the communication needs of the system's users may require.

(c) In developing the system required by this section, the coordinating body shall provide Ethernet ports at each I-Light node to allow access to the system by authorized users and persons other than authorized users, as permitted under section 3 of this chapter.

Sec. 3. (a) The system shall be made available first to authorized users. However, if the coordinating body determines at any time that the system has sufficient capacity to serve other users, the coordinating body shall permit any person to access the system, subject to subsections (b), (c), and (d). A person eligible to access the system under this section includes a commercial:

(1) telecommunications provider; or

(2) Internet service provider;

that meets any qualifications or criteria for access established by the coordinating body under subsection (d).

(b) If the coordinating body acts under subsection (a) to permit one (1) or more persons to access capacity on the system that is not needed to meet the broadband needs of authorized users, and it becomes necessary to allocate the available capacity among those persons, the coordinating body shall consider the following for each new person seeking access:

(1) Whether the person's allocated capacity on the system will be used by the person to provide broadband service to users:

(A) at a competitive rate; and

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(B) within a reasonable period after the person acquires access to the system; as determined by the coordinating body.

(2) The extent to which the person's allocated capacity on the system will be used to provide broadband service to underserved areas of Indiana.

(3) The extent to which allowing the person to access the system will contribute to the broadband service choices available to Indiana residents and businesses.

(c) The coordinating body may establish standards or other requirements for access to the system by a person other than an authorized user. However, any standards or requirements established under this subsection must be applied on a uniform and competitively neutral basis.

(d) The coordinating body shall provide access to the system under subsection (a) or (b) at a cost that does not exceed the coordinating body's costs to establish, operate, maintain, and administer the system, including any costs of upgrading the system to incorporate the best available technology, as determined by the coordinating body.

SECTION 2. IC 20-12-12-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 6. (a) A special and distinct fund is hereby created to be known as the higher education statewide telecommunications fund. Expenditures from the fund may be made only for the following:

(1) Payments by the universities for the use of a telecommunications system or the lease, purchase, rental, or production of a videotape program as provided in this chapter.

(2) Studies regarding the possibilities of extending the use of the telecommunications system described in section 1(a) of this chapter to other colleges and universities in Indiana and of extending the use of the system for post-high school and other educational uses.

(3) The expenses of coordinating, planning, and supervising the use of the telecommunications system, and the videotape program.

(4) Equipment for the originating and receiving of instructional communication and educational information by means of the telecommunications system and the videotape program.

(b) The statewide broadband account is established within the fund to pay the costs of the coordinating body established under IC 5-21.5-2-1 to establish, operate, maintain, and administer a

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1 statewide broadband system under IC 5-21.5. Costs under this
 2 subdivision include any costs of upgrading the system to
 3 incorporate the best available technology, as determined by the
 4 coordinating body. The account consists of fees or charges collected
 5 by the coordinating body for providing access to the system by
 6 authorized users or other persons, to the extent permitted under
 7 IC 5-21.5-2-3(d). Money in the account is continuously
 8 appropriated for the purposes of this subsection. Money in the
 9 account at the end of a state fiscal year does not revert to the fund.

10 ~~(b)~~ (c) The ~~state~~ auditor of state shall pay, as needed, from the fund
 11 and the account established under subsection (b) amounts to the
 12 trustees of Indiana University as agent for the universities and the
 13 coordinating body established under IC 5-21.5-2. The trustees of
 14 Indiana University as the agent shall apply the funds to the payment of
 15 items as payment becomes due from the higher education statewide
 16 telecommunications fund or the account established under
 17 subsection (b).

18 SECTION 3. [EFFECTIVE UPON PASSAGE] (a) As used in this
 19 SECTION, "coordinating body" refers to the coordinating body
 20 established under IC 5-21.5-2-1, as added by this act.

21 (b) As used in this SECTION, "system" refers to the statewide
 22 broadband system required to be established under IC 5-21.5-2-2,
 23 as added by this act.

24 (c) Not later than October 1, 2005, the coordinating body shall
 25 submit a report on its progress in establishing and implementing
 26 the system to the general assembly in an electronic format under
 27 IC 5-14-6.

28 (d) This SECTION expires January 1, 2006.

29 SECTION 4. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Economic Development and Technology, to which was referred Senate Bill No. 381, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 381 as introduced.)

FORD, Chairperson

Committee Vote: Yeas 8, Nays 3.

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SENATE MOTION

Madam President: I move that Senate Bill 381 be amended to read as follows:

Page 2, line 38, delete "The:" and insert "**The coordinating body to establish a statewide broadband system comprises four (4) individuals. The governor shall designate one (1) individual to represent the telecommunications industry. In addition, each of the following entities shall designate one (1) representative:**

- (1) **The intelenet commission established by IC 5-21-2-1.**
- (2) **The coordinating unit established by IC 20-12-12-3.**
- (3) **The holder."**

Page 2, delete lines 39 through 42.

Page 3, delete line 1.

Page 5, line 7, delete "state a" and insert "**a state**".

(Reference is to SB 381 as printed February 1, 2005.)

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